

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

July 7, 2003

CALL TO PODIUM:

Fred Felton
Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton
Assistant City Manager

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input checked="" type="checkbox"/>	Other: Introduction

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:

Introduction of an Ordinance to Amend Chapter 2 of the City Code, Entitled "Administration," Article II, Entitled "Municipal-County Relations," Section 2-6 Thereof, Entitled "Exemption From Montgomery County Legislation and Regulations Within the City" so as to Include the Provisions of Chapter 24 of the Montgomery County Code, Sections 24-9 Entitled "Availability of Tobacco Produced to Minors" Section 24-9C "Distribution of Tobacco Products to Minors" and Section 24-9D Entitled "Tobacco Products Placements," as Being Applicable and Enforceable Within the City Avenue

SUPPORTING BACKGROUND:

The Mayor and City Council held a public discussion concerning smoking laws on June 2, 2003. During the June 9, 2003 work session, the Mayor and City Council indicated that smoking laws should be uniform throughout the County and directed staff to prepare an ordinance to make the County smoking laws applicable within the City of Gaithersburg.

On July 1, 2003, the Montgomery County Council passed Bill No. 15-03 by an 8 to 1 majority. This bill prohibits smoking in indoor areas of all eating and drinking establishments except private clubs.

The measure has been sent to the County Executive for his signature, and the legislation will go into effect ninety-one (91) days after it becomes law. In the event the County Executive does not sign the bill, there appears to be enough support on the County Council to override an executive veto.

If the Mayor and City Council pass this ordinance, County smoking requirements will apply in the City of Gaithersburg and be enforced by the Montgomery County Health Department.

DESIRED OUTCOME:

Vote to introduce ordinance, and notify public that a public hearing will be scheduled before August 4, 2003

ORDINANCE NO. _____

INTRODUCTION OF AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE, ENTITLED "ADMINISTRATION," ARTICLE II, ENTITLED "MUNICIPAL-COUNTY RELATIONS," SECTION 2-6 THEREOF, ENTITLED "EXEMPTION FROM MONTGOMERY COUNTY LEGISLATION AND REGULATIONS WITHIN THE CITY" SO AS TO INCLUDE THE PROVISIONS OF CHAPTER 24 OF THE MONTGOMERY COUNTY CODE, SECTIONS 24-9 ENTITLED "AVAILABILITY OF TOBACCO PRODUCED TO MINORS" SECTION 24-9C "DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS" AND SECTION 24-9D ENTITLED "TOBACCO PRODUCTS PLACEMENTS," AS BEING APPLICABLE AND ENFORCEABLE WITHIN THE CITY AVENUE

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 2 of the City Code, entitled "administration", Article II, entitled "Municipal-County Relations", Section 2-6 thereof, is hereby amended to read as follows:

CHAPTER 2 ADMINISTRATION

* * * *

ARTICLE II. MUNICIPAL-COUNTY RELATIONS

Sec. 2-6. Exemption from Montgomery County legislation and regulation within the City.

It is hereby ordained by the Mayor and City Council of the City of Gaithersburg, Maryland, that pursuant to the authority granted by Article 23A, Section 2B(a), of the Annotated Code of Maryland, as enacted by Chapter 398 of the Laws of Maryland, 1983, and further pursuant to Chapter 33 of the Laws of Montgomery County, 1984, as codified in Chapter 2, Section 2-96 of the Montgomery County Code (1972 edition, as amended), as may hereafter from time to time be amended, the City of Gaithersburg, Maryland, is hereby declared exempt from any and all legislation and regulations pertaining hereto, heretofore or hereafter enacted by Montgomery County, Maryland, relating to any subject or matter upon which the Mayor and City Council of the City, or the City of Gaithersburg, as a municipal corporation, has been heretofore or is hereafter granted legislative authority, with the following exceptions which shall hereafter be applicable to and within the City of Gaithersburg, Maryland.

Chapter Title, Montgomery County Code 1984, as amended:

Chapter 1 - General Provisions

Chapter 24 - Health and Sanitation, Sec. 24-9, Sec. 24-9B, Sec. 24-9C and Sec. 24-9D

ADOPTED this _____ day of _____, 2003, by the City Council of Gaithersburg, Maryland.

Sidney A. Katz, Mayor and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 7th day of July, 2003. APPROVED/VETOED by the Mayor of the City of Gaithersburg, this _____ day of _____, 2003.

Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was Adopted by the City Council of Gaithersburg, in public Meeting assembled, on the _____ day of _____, 2003, And that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the _____ day of _____, 2003. This Ordinance will become effective on the date of approval by the Mayor.

David B. Humpton, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underling</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>



Montgomery County Council

For Immediate Release

July 1, 2003

Contact: Patrick Lacefield 240-777-7939 or Jean Arthur 240-777-7934

***Measure protects public health of restaurant customers,
employees...***

COUNCIL APPROVES SMOKING BAN FOR COUNTY RESTAURANTS & BARS

The Montgomery County Council today voted to protect the health of restaurant customers and workers by prohibiting smoking in County eating and drinking establishments.

Voting in favor of the measure were Councilmembers Nancy Floreen and Phil Andrews – the lead sponsors of the bill – joined by Councilmembers George Leventhal, Michael Knapp, Howard Denis, Steve Silverman, Michael Subin, and Tom Perez. Councilmember Marilyn Praisner favored an alternative approach that has been used in other jurisdictions, including Howard County.

"Smoking is already prohibited in every workplace in the state – except restaurants," said Councilmember Floreen. "Today we've closed that loophole and protected restaurant customers and employees alike from the known health hazards of second-hand smoke."

"I believe non-smokers from across our region will join the County's non-smokers in flocking to our restaurants, grateful for the chance to eat smoke-free."

Other measures have already been approved by the states of California, Delaware, and Connecticut and by cities such as New York, Austin, and Boston. A statewide smoke-free workplace bill, which includes restaurants, goes into effect today in Florida.

The measure now goes to the County Executive for his signature and the legislation would go into effect 91 days after it becomes law.

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The Council unanimously approved an amendment to set up a fund to provide marketing assistance to County restaurants affected by the law. The Council defeated by 7 to 2 an amendment offered by Councilmember Praisner to allow for enclosed, separately-ventilated smoking areas through which non-smokers would not need to pass, similar to that in Howard County. The Council also turned aside by a 6 to 3 vote an amendment proposed by Councilmember Silverman to delay the effective date of the measure until July 1, 2005.

"This is an issue of protecting the public health," said Councilmember Leventhal, chair of the Health & Human Services Committee. "This isn't about whether smokers have the right to smoke or not. The question is whether other people should be harmed by second-hand smoke."

The legislation would prohibit all smoking in eating and drinking establishments in the County, except certain private clubs with liquor licenses. Maryland law gives local jurisdictions the authority to further restrict smoking only in "establishments open to the public."

The law would not apply to non-enclosed outdoor eating areas.

"Experience from other places appears to show no significant adverse economic impact," said Councilmember Howard Denis. "This just makes sense for Montgomery County."

The Montgomery County Council initially approved a smoking ban in County eating and drinking establishments on March 9, 1999, acting in its role as the County Board of Health. Scheduled to go into effect on January 1, 2002, that regulation was challenged in court and overturned on procedural grounds by the Maryland Court of Appeals this past May 2.

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